

UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF OHIO
EASTERN DIVISION

DAVID G. NENZOSKI, <i>Pro Se</i> ,)	Case No.: 5:10 CV 488
)	
Petitioner)	JUDGE SOLOMON OLIVER, JR.
)	
v.)	
)	
FRANK SHEWALTER, WARDEN,)	
)	
Respondent)	<u>ORDER</u>

On March 8, 2010, Petitioner David G. Nenzoski, *pro se* (“Nenzoski”), filed a Petition for Writ of Habeas Corpus pursuant to 28 U.S.C. § 2254, challenging the constitutionality of his felony convictions for several counts of sexual battery and unlawful sexual conduct with a minor. (ECF No. 1.) Petitioner raised two grounds for relief in his Petition: (1) “[d]enial of effective assistance of defense counsel at trial court’s sentencing plea proceedings, inter alia;” and (2) “[c]onviction obtained by plea of guilty unlawfully induced and not made voluntarily of nature of plea.” (*Id.* at 4.)

This case was referred to Magistrate Judge Kenneth S. McHargh for preparation of a report and recommendation. The Magistrate Judge issued his Report and Recommendation (“R&R”) on February 23, 2012, recommending that the Petition be denied. (ECF No. 17.) Specifically, the Magistrate Judge concluded that ground one of the Petition should be denied because it was not raised before the Supreme Court of Ohio and therefore, the claim was not fairly and fully presented

to the state courts. In addition, he found that the second ground, regarding Nenzoski's plea, was not raised in the state courts at all. (R & R at 10-14.)

As of the date of this Order, Petitioner has not filed any objections to the Report and Recommendation. By failing to do so, he has waived the right to appeal the Magistrate Judge's recommendation. *United States v. Walters*, 638 F.2d 947 (6th Cir. 1981); *Thomas v. Arn*, 474 U.S. 140 (1985).

The court finds that, after *de novo* review of the Report and Recommendation and all other relevant documents, the Magistrate Judge's conclusions are fully supported by the record and controlling case law. Accordingly, the court adopts as its own the Magistrate Judge's Report and Recommendation. (ECF No. 17.) Consequently, Nenzoski's Petition is hereby denied and final judgment is entered in favor of Respondent. The court further certifies that, pursuant to 28 U.S.C. § 1915(a)(3), an appeal from this decision could not be taken in good faith, and there is no basis upon which to issue a certificate of appealability.

IT IS SO ORDERED.

/s/ SOLOMON OLIVER, JR.
CHIEF JUDGE
UNITED STATES DISTRICT COURT

March 27, 2012